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ABSTRACT

A review of the literature useful for public relations researchers and students explored the primary legal concerns that public relations practitioners face, including first amendment rights, insider trading, regulations when working with foreign organizations, disclosure, privacy, copyright/trademark law, advertising, and defamation. Public relations law exists in the gray area of regulative and legislative actions. Without exceptions, though, every area of the practice of public relations involves the rights and restrictions of ethical discourse. All written materials and verbal agreements must be legally sound. Every practitioner must discover and be aware and abide by these laws and governmental actions to properly serve their clients on an ethical and democratic manner. Further complicating the role of the public relations practitioner is the need to discover, adapt, and change to demands in the international marketplace as well as in the multinational organization. (A model photograph release, the International Bill of Rights of the United Nations, and the Code of Professional Standards for the Practice of Public Relations are attached. Contains 26 references.) (Author/RS)

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The Impact of the Law on the Practice of Public Relations Discourse

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The Impact of the Law on the Practice of Public Relations Discourse

Abstract

Public relations law exists in the gray area of regulative and legislative actions. Without exceptions, though, every area of the practice of public relations involves the rights and restrictions of ethical discourse. All written materials and verbal agreements must be legally sound. Every practitioner must discover and be aware and abide by these laws and governmental actions in order to properly serve their clients in an ethical and democratic manner. Further complicating the role of the public relations practitioner is the need to discover, adapt, and change to demands in the international marketplace as well as in the multinational organization. Specific issues addressed include privacy and employee publications, copyright, first amendment rights, advertising, and defamation.

The Impact of the Law on the Practice of Public Relations Discourse

INTRODUCTION

Legal battles are fought in every profession and every court in today's global marketplace. Corporations are being sued for failure to disclose appropriate securities information, advertising agencies are being sued for appropriation, scholars are being sued for copyright violations, multinational organizations are being sued for violation of the Securities and Exchange Act, and journalists are being sued for libel and slander. As the Congress and Supreme Court impose and sanction more regulative actions, the legal arm of the government is reaching out to all professions including teachers, marketers, healthcare professionals and public relations practitioners.

Every area of public relations practice involves legal rights and restrictions; therefore all public relations practitioners must understand the legal implications and ramifications of any issue with which their client becomes involved. The legal position of any organization, firm, or profession must become the primary consideration of the public relations practitioner. Public relations is not only concerned with the client's position in the eyes of the law, but also in the eyes of public opinion.

As with any branch of the law, public relations law does not offer black and white answers. In fact, public relations law does not even exist in the eyes of lawyers. Rather, communications law is more appropriate terminology. No matter the title, public relations/communications law lies in the gray area of legislative actions and court interpretations (Walsh, 1991).

The primary legal concerns practitioners face include First Amendment rights, insider trading, regulations when working with foreign organizations, disclosure, privacy and copyright/trademark law. This paper will address these laws and illustrate the impact they have on the practice of public relations and on internal and external audiences.

FIRST AMENDMENT

The First Amendment states:

> "Congress shall make no law... abridging the freedom of speech or the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The First Amendment applies to most media; in particular newspapers, books, magazines, electronic media and film. The Supreme Court ruled that charitable appeals for funds either on the street or door-to-door are actions also protected under the First Amendment. These appeals involve the communication of ideas, information, and views which support advocacy. Not all content, such as "fighting words", comes under the protection of the First Amendment. Additionally, symbolic actions that interfere with the government and its philosophy, such as burning the American Flag is not protected under the First Amendment either (Cutlip, Center, & Broom, 1994).

Obscenity, false commercial advertising, and fighting words are all excluded from protection by definition. Fightingwords are defined as "likely to provoke the average person to retaliation, and thereby cause a breach of the peace" (Chaplinsky v. New Hampshire, 1942). These words are also excluded from protection because, "by their utterance they inflict or tend to incite an immediate breach of the peace" ... to be considered

fighting words, an offensive expression must have a direct tendency to cause acts of violence by a person to whom, individually, the remark is addressed" (Gooding v. Wilson, 1972). The First Amendment, however, requires that the burden of proof (that rights have been violated) rest on the shoulders of the government. "Citizens who know they must prove their conduct is lawful, the Supreme Court has said, will steer far wider of the unlawful zone then if the state must bear these burdens" (Middleton & Chamberlin, 1991). For example, the government must bear the burden of proof of why a specific publication or broadcast commercial might be dangerous to the nation or the consumer and that the publication/commercial should not be allowed. Persons or organizations who defame, invade privacy, or disturb the peace violate a citizen's (or corporation's) rights as defined by the First Amendment.

Enforcement of the First Amendment applies to citizens, organizations and governments. An example of when protection of the organization was in direct opposition to local governmental restrictions was cited when the Court ruled that it is a violation of the First Amendment for a city to prohibit charitable groups from seeking funds when more than 25% of those funds will be used for administrative expenses and overhead (Cutlip, Center, & Broom, 1994). Ultimately, the courts attempted to ensure the maximum freedom of expression even though some expression may be restricted (Middelton & Chamberlin,1991).

First Amendment and Commercial Speech/Advertising

In 1976, Justice Harry Blackman made a ruling that equated the marketplace of freedom of speech and ideas with the highly regulated commercial speech. He stated:

> Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason and at what price. So long as we preserve a predominantly free enterprise economy the allocation of our resources in large measure will be made through numerous private economic discussions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable (Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, 1976).

Advertising rights were upheld in subsequent Court cases after Justice Blackman's ruling in 1976 even though the Court generally agrees that advertising can be more heavily regulated because advertising is hardy and verifiable, often with scientific tests. The Court also indicates that advertising will not be curtailed by regulations because of economic gains. Because of the hardiness and verifiability of advertising, the Supreme court says there is no reason to tolerate inaccurate or misleading commercial speech. Consequently, it is deemed constitutional for the government to ban, alter, and/or require statements.

When deciding commercial speech cases, the Court uses a four part test:

1.) The court determines if the expression is protected by the First Amendment. Remember, to be protected, the expression must concern a lawful activity and not mislead.

2.) The Court asks if the asserted governmental interest is substantial enough to justify regulation. In other words, can the government bear the burden of proof.

3.) If the above two conditions are in place, the Court then asks whether the regulation directly advances the governmental interest.

4.) The Court finally asks whether the regulation is more extensive than necessary to serve that interest.
(Central Hudson Gas and Electric Coporation v. Public Service Commission of New York, 1980)

The Court says that advertising can be and should be more heavily regulated by governments, trade, and professional associations. Regulatory bodies are still free to require the inclusion of "additional information, warnings, and disclaimers, as are necessary... to ensure that advertisements are not deceptive, such as in the case of cigarette advertising (Cutlip, Center, & Broom, 1994).

Federal agencies with regulatory power over advertising include: Federal Trade Commission, Federal Communications Commission, Securities and Exchange Commission, United States Postal Service, and Bureau of Alcohol, Tobacco and Firearms. Of these regulatory bodies, the Federal Trade Commission has more control and usually monitors advertising content to protect the public against misleading, fraudulent, and obscene, and indecent advertisements. False, deceptive and unfair commercial advertisements are outside constitutional protection. These advertisements may be banned or altered under a number of federal and state laws. Advertising is regulated at both the state and federal levels.

The appropriate regulating body may also stop or alter deceptive advertising and require substantiation of the advertiser's claims. The Federal trade Commission, for example, may halt both unfair and deceptive advertising, but since the Commission does not operationally define the terms "unfair" and "deceptive", a gray area in the law exists. Normally, unfair advertising is looked upon as advertising which causes substantial harm that a consumer or competitor cannot avoid. Substantial harm is often considered to be monetary harm. Deception is usually taken to mean any advertisement as a material representation or omission that is likely to mislead consumers acting reasonably. The Federal Trade Commission identifies the following three elements to determine if an advertisement is deceptive.

1.) **Probability of Deception**: Advertisements must possess a "tendency" or "capacity" to mislead a reasonable consumer. Often, deception is determined by the overall impression of the advertisement.

2.) **Characteristics of Consumers**: This element identifies the likelihood the advertisement will deceive those to whom it is addressed if that audience is acting reasonably in the circumstances. Interesting, an advertisement is not deceptive if it misleads only a few "gullible" consumers.

3.) **Materiality:** To be deceptive, the advertisement must contain material deception. A material statement is defined as an advertisement which will affect a consumer's buying decision. In other words, an omission of information the seller knows the consumer needs to form an accurate impression.

Falsehoods are deceptive. For example, The Federal Trade Commission requires that celebrities and experts endoresements must have material substantiation. Experts are defined as people who have acquired superior knowledge of a subject as a result of experience, study, or training. Endorsements by experts and celebrities are regulated because they are thought to carry special weight with consumers (Code of Federal Regualtions, 1990). Experts should have compared a product or service they support with other similar products and/or services. Celebrities must use the product or service they endorse. If they stop using the product/service, they must stop the endorsements (Middleton & Chamberlin, 1991). For example, in 1978, Pat Boone endorsed Acne-Satin, a skin medication. He declared he and his family used the product. This endorsement was ruled deceptive because one of his daughters did not use the product. Boone was ordered by the Court to contribute his share of the profits from Acne-Satin sales as restitution for people who bought the product. The advertising agency also paid damages (Cooga Mooga, 1978).

PRIVACY LAW

Privacy defends intangible attributes of the human personality which exist apart from the physical person and the individual's worldly assets. Black's Law dictionary defines privacy in the following manner.

> Privacy includes rights recognized to be inherent in the concept of ordered liberty, and such rights prevent government interference in intimate personal relationships or activities, freedom of individual to make fundamental choices involving himself, his family and his relationships with others... the right to withhold himself and his property from public scrutiny, if he so chooses.

Privacy is simply the right to be left alone. Public relations practitioners must recognize this fact especially when they are writing news releases, speeches, corporate reports, newsletters, house organs, and other communications. Constant attention must be given to photographs and staements which might defame or invade someone's privacy. Both the employer/client and practitioner can be held accountable.

William L. Prosser, legal scholar, indicated that privacy law can be divided into four different torts. Tort refers to the civil suit application of the law. Each of these different torts is an interference with the person's right to be left alone.

1.) **Intrusion upon the Plaintiff's Seclusion or Solitude:** This refers to the intrusion into a person's private affairs, illegal entry, unlawful search, and electronic eavesdropping.

2.) **Public Disclosure**: This includes the disclosure of embarassing facts about the plaintiff(s), violation of the person's personality which may cause mental anguish, disclosure of private photographs, medical information, and the lack of a written release of information.

3.) **False Publicity:** Any publicity which places the plaintiff in a false light in the public's eye or when a person is made to appear other than they are. For example, captions under a photograph which misleads or misinterprets.

4.) **Appropriation**: The taking of a person's name or likeness for advertising purposes or purposes of trade without the person's consent. (Refer to Appendix A for sample release)

Appropriation has a significant impact on the practice of public relations. The appropriation rule was reaffirmed in 1938 in the case of Flake v. Greensboro News Company. In this court case, the newspaper mistakenly used a photograph of a woman in an advertisement. Once the mistake was recognized by the newspaper, a full explanation of the mistake and an apology was issued. However, the court held the plaintiff to a cause of action under the appropriation tort. The Court stated:

> If it be conceded that the name of a person is a valuable asset in connection with an advertising enterprise, then it must likewise be conceded that his face or features are likewise of value. Neither can be used for such a purpose ithout the consent of the owner without giving rise to a cause of action.

A person's value is unique (except in the case of identical twins) and the value of that image is easily traced to a single individual.

Most cases of appropriation involving advertising present the public relations practitioner with a clear black-n-white guideline. Cases involving "purpose of trade" are, however, very gray. Purpose of trade agreements are usually judged by monetary standards. Where the common law right of privacy is recognized, financial gain is not the only standard of whether a person's name or likeness has been appropriated. In some states, the legal rule is different. New York, Oklahoma, Virginia, Utah, and California have privacy statutes requiring proof of monetary advantage gained by the publication before a suit may be successful (Walsh, 1991).

One of the main responsibilities of the public relations practitioner is informing employees. Disseminating information to the employees is accomplished through internal publications where the purpose is to inform the employees about the organization, their jobs and the activities of other organizational members; external publications whose function is to promote the commercial interests of the organization; and/or internal/external publications whose purpose is to inform employees and forward the commercial interests of the organization. The legal exposure for invasion of privacy increases from internal to external publications. Employees do not waive their rights just because they are employees. Consent of the individual employee is needed for external publications. Consents are in the form of formal written releases for photographs, video shots, quotes, private issues, etc. (Walsh, 1991).

LIBEL AND SLANDER LAWS

Defamation is known as libel (published written defamation) and slander (distributing spoken defamation). These include statements that diminish the respect, goodwill, confidence, or esteem of an individual, or statements which produce adverse feelings about a person or organization. Four conditions, sometimes five, must be met before a statement is held legally libelous.

1.) Hurt someone's reputation. In other words be defamatory.

2.) Identify the victim by name or by some other way obvious to others.

3.) Be communicated in some way; publication or broadcast to an audience other than the victim.

4.) Contain an element of fault, proof of a falsehood being desseminated with either malice or negligence.

5.) Or, in the absence of the fourth condition, cause probable damages or injury.

Another example of the gray area of legislation is the lack here of a definition of probable damages or injury. Often these interpretations are left up to a judge (Overbeck, 1992).

COPYRIGHT LAWS

Copyright laws provide that the copyright owner "shall have exclusive right" to reproduce, distribute, and use original works of expression fixed in a tangible medium. Written, dramatic, pictorial, graphic and sculptural works can all be copyrighted. Ideas, methods of operation, concepts or utilitarian objects (such as desks) cannot be copyrighted. A photograph of a particular building can be copyrighted, but others cannot be prevented from photographing the same building. The copyright only protects a particular image from being used without the consent of the owner (Simon, 1969).Copyright protects the expression, but not the idea of creating the expression or the facts contained in the expression. (A.A. Hoehling v. Univeral City Studios, 1980).

Copyright lasts for the life of the author plus 50 years. The advantage of copyright, then, is that the will's benefactors can hold a copyright up to 50 years after the death of the owner. Works copyrighted prior to 1978 retain their copyright up to 75 years after the death of the "author" of the work.

Copyright belongs to the "author" of the work, but the legal author is not necessarily the creator of the material. When a work is made "for hire", the work belongs to the party who hires the author. For example, an organization which directs the Public Relations Office to design a brochure outlining the various community service projects the organization oversees is the legal owner of the brochure and not the practitioner who created it.

To protect copyright, the material must place copyright notice on the material and then register and deposit it with the Copyright Office in Washington, D.C. Registration is

a way of protecting the author's rights to the work. The person who first registers a work has strong legal claim to copyright ownership in the event of a dispute.

The "fair-use" doctrine is the law's attempt to reconcile society's interest in encouraging creativity with its conflicting interest in ensuring that knowledge of creative achievement is widely disseminated and discussed. Fair-use is the privilege for others to use the copyrighted material in a reason manner without the author's consent (Middleton & Chamberlin, 1991). This doctrine permits limited copying of the copyrighted material for productive purposes such as news reporting, criticism, and comment. For copying to be fair, the copier should engage in creating a new work which adds an original contribution to the material which is copied (Nimmer, 1989). The Court considers the following factors when determining if copying is of fair use:

> 1.) the **purpose** and **character** of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
>
> 2.) the **nature** of the copyrighted work;
>
> 3.) the **amount** and **substantiality** of the portion used in relation to the copyrighted work as a whole; and
>
> 4.) the **effect** of the use upon the potential market for, or value of, the copyrighted work (Nimmer, 1989).

The most important aspect of fair use is the consideration of the commercial damage copying might cause to a copyrighted work.

When the copyright law was last revised, the Senate stated that fair use includes:

> quotation of excerpts in a review or criticism for purpose of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report... reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported (Senate Judicial Committee, 1974).

The laws tries to encourage the dissemination of information so brief excerpts from copyrighted works used by scholars or reporters is permitted without paying royalties. At the same time, incidental and fortuitous reproduction of a copyrighted piece is a fair use when it appears as a background to events being reported in a news broadcast.

The Courts are least likely to find a fair use when the materials are copied for a commercial use and the copyrights owner's commercial market is damaged. However, copying may be fair use, if the copying adds comments and/or criticism of the work. Overall, copyright of the whole of a work is an infringement, except, (another gray area) of course, in the case of copying television programs for personal use (Middleton &

Chamberlin, 1991). If such an infringement occurs, the copyright owner can sue for damages.

INSIDER TRADING AND DISCLOSURE

Financial public relations requires knowledge of corporate finances and the corresponding legalities involved. PRSA defines financial public relations as:

> The dissemination of information that affects the understanding of stockholders and investors generally concerning the financial position and prospects of a company, and includes among its objectives the improvement of relations between corporations and their stockholders (Code of Professional Standards for the Practice of Public Relations, 1992).

Under the Security Exchange Commission (SEC)'s integrated disclosure system, corporations in which members of the public own shares must continuously provide information about the health of the company (Cutlip, Center, & Broom, 1994).

Investor relations specialists issue press releases, draft speeches, conduct annual meetings, and write quarterly and annual reports to achieve the adequate and accurate information required under federal law. Investor relations is regulated by the 1933 Securities Act and the 1934 Securities and Exchange Act. When securities are offered to the public, the SEC must be notified and the appropriate papers filed. Companies are required to provide "material" information about new security offerings so that investors can make purchasing decisions based on facts. Information is considered to be material if:

1.) the information is likely to have a significant effect on securities prices

or

2.) information is likely to be considered important by a reasonable investor in making investment decisions to buy, hold, or sell shares.

Information about a company which are considered to be material include information about property, business, financial condition and prospects; mergers and acquisitions; dealings with employees, suppliers, customers, and others; and information concerning a significant change in ownership of the company's securities owned by insiders, principal shareholders, or control persons (American Stock Exchange Disclosure Policies, 1983). circumstances which require disclosure include:

* a joint venture, merger, or acquisition
* the declaration or omission of dividends or the determination of earnings
* a stock split or stock dividend
* the acquisition or loss of a significant contract

* a significant new discovery or product

* a change in control or a significant change in management

* a call of securities for redemption

* the borrowing of a significant amount of funds

* a public or private sale of a significant amount of securities

* significant litigation

* the purchase or sale of a significant asset

* a significant change in capital investment plans

* a significant labor dispute or disputes with subcontractors or suppliers

* establishment of a program to make purchases of the company's own shares

* an event of technical default or default on interest and/or principal payments

The information released must be "factual, clear and succinct" (Code of Federal Regulations, 1990). Press releases acknowledging any of the above activities or attempting to suppress a rumor about a company and its activities must also be accurate and truthful. The SEC has been known to cite public relations practitioners for failing to disclose full information which affects the consumer or stockholder in press releases and/or newsletters (Walsh, 1991).

The Securities Act also requires a company to register its stock with the SEC and provide detailed information about its financial history and prospects. Section 5 of the 1933 Act prohibits a company from offering to sell or buy a security before the security is registered with the SEC.

During the prefiling period and 20 day waiting period after securities are filed, a company can distribute a "red-herring" prospectus that describes the stock but clearly indicates that it is not an offering for sale. Not until a security offering is registered can brokers and dealers issue written offers to sell the stock. During the registration period, companies do continue the usual flow of advertising, informational press releases, quarterly and annual reports, and proxy statements. However, if a press release is issued BEFORE a registration statement was filed with the SEC, this could begin the illegal selling process before the securities were registered. This disclosure is also extremely important when a public relations practitioner represents a foreign issuer whose common stock is traded over-the-counter.

In a policy statement issued by the SEC, the following public relations activities were considered "normal" during a stock registration period:

* continue to advertise product and services. Materials such as sales promotion leaflets, displays and general product or service publications may also be issued.

* continue to send out customary quarterly, annual and other periodic reports to stockholders. News releases disclosing financial results

for these periods should also be issued, but must not include short or long term estimates.

* continue to publish proxy statements and dividend notices

* continue to make announcements to the press with respect to factual business and financial developments; for example, receipt of a contract, strike settlement.

* continue to issue news releases on personnel appointments and new products or research developments. Such announcements concerning estimates on how the new developments will affect sales should not be included.

* answer unsolicited telephone inquiries from stockholders financial analysts, the press and others concerning factual information.

* continue to hold stockholders meetings as scheduled

* speeches before trade and professional groups that were scheduled before the decision to register may be given, provided no projections are made.

The Securities Exchange Act of 1934 mandates disclosure to ensure that investors have accurate information during the trading of securities. Section 13 of the act requires companies registered with the SEC to file quarterly, annual and other reports with the SEC.

The annual report has long been regarded the most effective medium for disseminating corporate financial information to the investment community. Two kinds of annual reports exist. First, the usual glossy publication sent to shareholders and secondly, the 4-part report in Form 10-K with the SEC (Cutlip, Center & Broom, 1994). The financial report in the glossy annual report usually did not contain the detailed financial information found in the 10-K, but recent revisions of the mandate states that the shareholders must receive the same financial information as does the SEC.

Practitioners also need to issue proxy materials and organize the company's annual meetings and send out notices about such meetings. Proxies are the statements companies send to shareholders telling them when and where the annual meeting will be held and what business will be conducted. Stockholders who cannot attend the meeting can vote their shares by proxy.

In proxy disputes, in which a group of shareholders try to sway votes to oppose management, the public relations practitioner may help choose issues, plan appeals to stockholders and buy editorial advertising to promote management's position.

Appropriate disclosure procedures depend on the size of a company and the dispersion of its stockholders, but the basic principle remains the same: public statements must be truthful.

The PRSA Code of Professional Standards provide the financial practitioner with solid ethical and legal guidelines by stating:

> Members shall not disclose confidential information the disclosure of which might be adverse to a valid corporate purpose or interest and whose disclosure is not required by the timely disclosure provisions of the law. During such period of non-disclosure members shall not

directly or indirectly (a) communicate the confidential information to any other person or (b) buy or sell or in any other way deal in the company's securities when the confidential information may materially affect the market for security when disclosed. Material information shall be disclosed publicly as soon as its confidential status has terminated or the requirements of timely disclosure takes effect.

INTERNATIONAL CORPORATIONS AND LAWS

Public relations practitioners representing foreign governments must register under the Foreign Agents Registration Act of 1938. Under the amended Foreign Agents Registration Act, all persons who are working as agents of foreign governments, companies, or political parties must register within 10 days with the U.S.Attorney General. They must also report under oath every 6 months the names of the foreign interests for whom they work, the activities they carry out, and where they receive and how they spend their money (Cutlip, Center & Broom, 1994).

The United States securities laws apply to foreign companies who issue securities in this country. The rules of the United States stock exchanges apply to foreign companies whose securities are traded on these exchanges. The Exchange Act requires foreign companies to register securities for purposes of listing on an exchange or the over-the-counter trading provisions. The foreign companies must disclose the following information:

* Country and date of incorporation, termination date of charter and ending date of fiscal year.

* Ownership and control by another corporation or by a foreign government.

* General character of the business and substantial changes in the character of the business over the last five years.

* Character and location of principal plants and other important units

* Description of capital shares, funded debt, or other securities to be registered.

* Currency exchange controls affecting distributions to security holders or other limitations on the right of foreigners to hold or vote securities.

* Aggregate compensation paid to directors and officers during the latest fiscal year.

* Information on options to purchase the company's securities.

* financial statements, schedules and accountants' certificates including a comparative balance sheet for the latest and preceding fiscal year, a statement of income for the last three years and a statement of source and application of funds.

Annual and quarterly reports must also be submitted to the SEC. In the annual report any changes or modifications in information previously reported, along with updated management remuneration information, increases or decreases in outstanding securities and current certified financial statements must be included. Quarterly reports must cite the current developments in the company which include:

1.) country where they are based, incorporated or organized

2.) filing with a foreign stock exchange on which their securities are traded and which the exchange was made public

3.) distribution of information to stockholders

4.) changes in character of business

5.) information concerning financial condition or results of operations.

6.) acquisitions or dispositions of assets

7.) changes in management or control

8.) granting of options or payment of other remuneration to directors or officers

9.) transactions with officers, directors, or principal stockholders

10.) any other information which may be of interest to investors

International Bill of Rights of the United Nations

Registration with the Attorney General and SEC registration are not the only regulations by which a foreign agent must abide. In 1948, the United Nations established an international Bill of Rights which imposes certain ethical and legal sanctions on all countries of which public relations practitioners need to be aware. The preamble to this declaration calls for " a world in which human beings shall enjoy freedom of speech and belief. Everyone has the right to freedom of thought, conscience and religion. Everyone also has the right to freedom of opinion and expression". The Declaration makes it very clear that all governmental laws of the country in which the organization is operating must be followed, but all humans are free and equal in rights and dignity. Article 2 states everyone is entitled to the same rights and freedoms without exception. "No distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation or sovereignty". (Refer to Appendix B)

The public relations laws discussed earlier are upheld in this Bill of Rights of the United Nations. The following articles from the Bill of Rights and the coordinating public relations laws are listed below:

First Amendment:

Article 18: Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Privacy Laws:

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Slander and Libel Laws:

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Copyright Laws:

Article 27:2: Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.

Disclosure Laws:

Article 29:2: In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedom of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

The United Nations upholds every public relations law set forth by governmental and regulatory bodies; therefore, all foreign agents must abide by these laws when representing

a foreign company whether they be located in the United States or another country (if they have business interests in this nation).

Ethics and Law

Public relations practitioners who belong to the Public Relations Society of America are bound by an ethical code of professional standards. These specific standards are used by various other professional organizations as well, because they provide a foundational guideline for ethical behavior. (Refer to Appendix C)

This code of professional standards support all the legalities discussed in this paper and directly indicate that all ethical activities should be legal. Listed below are the PRSA Codes and the corresponding laws:

First Amendment

Code 1: A member shall conduct his or her professional life in accord with the public interest.

Code 2: A member shall exemplify high standards of honesty and integrity while carrying out dual obligations to a client or employer and to the democratic process.

Code 3: A member shall deal fairly with the public, with past or present clients or employers, and with fellow practitioners, giving due respect to the ideal of free inquiry and to the opinions of others.

Code 4: A member shall adhere to the highest standard of accuracy and truth, avoiding extravagant claims or unfair comparisons and giving credit for ideas and words borrowed from others.

Code 5: A member shall not knowingly disseminate false or misleading information and shall act promptly to correct erroneous communications for which he or she is responsible.

Privacy Law

Code 6: A member shall not engage in any practice which has the purpose of corrupting the integrity of channels of communications or the processes of government.

Code 13: A member shall scrupulously safeguard the confidences and privacy rights of present, former, and prospective clients or employers.

Libel and Slander Laws

Code 14: A member shall not intentionally damage the professional reputation or practice of another practitioner.

Copyright Laws

Code 4: A member shall adhere to the highest standards of accuracy and truth, avoiding extravagant claims or unfair comparisons and giving credit for ideas and words borrowed from them.

Disclosure:

Code 2: A member shall exemplify high standards of honesty and integrity while carrying out dual obligations to a client or employer and to the democratic process.

Code 8: A member shall not use any individual or organization professing to serve or represent an announced cause, or professing to be independent or unbiased, but actually serving another or undisclosed interest.

Code 11: A member shall not place himself or herself in a position where the member's personal interest is or may be in conflict with an obligation to an employer or client, or others, without full disclosure of such interests to all involved.

Code 12: A member shall not accept fees, commissions, gifts, or any other consideration from anyone excepts clients or employers whose services are performed without their express consent, given after full disclosure of the facts.

Practitioners need to remember that to be ethical is to be legal and to be legal is to be ethical.

CONCLUSION

Public relations practitioners must base their professionalism on integrity and dignity. The goal is to serve in the best interest of the client by abiding by the laws and regulations set forth by the federal and state governments and governing regulatory bodies. As the PRSA code states:

> We (practitioners) pledge to conduct ourselves professionally,
> with truth, accuracy, fairness, and responsibility to the public;
> to improve our individual competence and advance the knowledge
> and proficiency of the profession through research and education...

We pledge to be ethical and abide by the laws set forth.

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APPENDIX A

MODEL RELEASE

Model Photograph Release

I hereby grant to the_____the right to produce and publish my photograph or likeness in the _____in any manner they may see fit.

Note: If under the age of eighteen, parent or guardian must sign.

Name:_____

Address: _____

_____

Date: _____

APPENDIX B

INTERNATIONAL BILL OF RIGHTS OF THE UNITED NATIONS

International Bill of Rights of the United Nations

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realizations of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a

heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1 Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to freedom of peaceful assembly and association.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by the other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

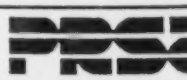
Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

APPENDIX C

CODE OF PROFESSIONAL STANDARDS FOR THE PRACTICE OF PUBLIC RELATIONS

Code of Professional Standards for the Practice of Public Relations



Declaration of Principles

Members of the Public Relations Society of America base their professional principles on the fundamental value and dignity of the individual, holding that the free exercise of human rights, especially freedom of speech, freedom of assembly, and freedom of the press, is essential to the practice of public relations.

In serving the interests of clients and employers, we dedicate ourselves to the goals of better communication, understanding, and cooperation among the diverse individuals, groups, and institutions of society, and of equal opportunity of employment in the public relations profession.

We pledge:

To conduct ourselves professionally, with truth, accuracy, fairness, and responsibility to the public;

To improve our individual competence and advance the knowledge and proficiency of the profession through continuing research and education;

And to adhere to the articles of the Code of Professional Standards for the Practice of Public Relations as adopted by the governing Assembly of the Society.

Code of Professional Standards for the Practice of Public Relations

These articles have been adopted by the Public Relations Society of America to promote and maintain high standards of public service and ethical conduct among its members.

1. A member shall conduct his or her professional life in accord with the **public interest**.
2. A member shall exemplify high standards of **honesty** and **integrity** while carrying out dual obligations to a client or employer and to the democratic process.
3. A member shall **deal fairly** with the public, with past or present clients or employers, and with fellow practitioners, giving due respect to the ideal of free inquiry and to the opinions of others.
4. A member shall adhere to the highest standards of **accuracy and truth**, avoiding extravagant claims or unfair comparisons and giving credit for ideas and words borrowed from others.
5. A member shall not knowingly disseminate **false or misleading information** and shall act promptly to correct erroneous communications for which he or she is responsible.
6. A member shall not engage in any practice which has the purpose of **corrupting** the integrity of channels of communications or the processes of government.
7. A member shall be prepared to **identify publicly** the name of the client or employer on whose behalf any public communication is made.
8. A member shall not use any individual or organization professing to serve or represent an announced cause, or professing to be independent or unbiased, but actually serving another or **undisclosed interest**.
9. A member shall **not guarantee** the achievement of specified results beyond the member's direct control.
10. A member shall **not represent conflicting** or competing interests without the express consent of those concerned, given after a full disclosure of the facts.
11. A member shall not place himself or herself in a position where the member's **personal interest is or may be in conflict** with an obligation to an employer or client, or others, without full disclosure of such interests to all involved.
12. A member shall **not accept fees, commissions, gifts or any other consideration** from anyone except clients or employers for whom services are performed without their express consent, given after full disclosure of the facts.
13. A member shall scrupulously safeguard the **confidences and privacy rights** of present, former, and prospective clients or employers.
14. A member shall not intentionally **damage the professional reputation** or practice of another practitioner.
15. If a member has evidence that another member has been guilty of unethical, illegal, or unfair practices, including those in violation of this Code, the member is obligated to present the information promptly to the proper authorities of the Society for action in accordance with the procedure set forth in Article XII of the Bylaws.
16. A member called as a witness in a proceeding for enforcement of this Code is obligated to appear, unless excused for sufficient reason by the judicial panel.
17. A member shall, as soon as possible, sever relations with any organization or individual if such relationship requires conduct contrary to the articles of this Code.

This Code was adopted by the PRSA Assembly in 1988. It replaces a Code of Ethics in force since 1950 and revised in 1954, 1959, 1963, 1977, and 1983.